vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5609 OF 2005

Vaibhav Trading Corporation ... Petitioner
V/s.
Shri Krishna Dhaiphule ... Respondent

Mr.S.V. Sadavarte for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 22, 2007**

P.C.:

. The writ petition has been filed challenging the order passed in the Miscellaneous Application (IDA) No.50 of 2004 and the award in Reference (IDA) No.800 of 1997. The award was passed on 26.12.2003. Although a written statement was filed by the petitioner opposing the statement of claim and denying the averments therein, the petitioner did not file any documents before the Court like the muster roll or wage register. The Labour Court came to the conclusion on the basis of the evidence led by the workman that he was employed by the petitioner and that he was entitled to reinstatement with full backwages and continuity of service from 20.11.1996.

2. The Miscellaneous Application was filed in 2004. The Miscellaneous Application in fact has been filed for the restoration of complaint No.213 of 2001. The Labour Court has rightly, therefore, observed that on this ground alone, the miscellaneous application needs to be

dismissed since that complaint was not on record of the 8th Labour Court. However, the Labour Court has considered whether the petitioner had made out a case for setting aside the award in Reference (IDA) No.800 of 1997. The Labour Court has for cogent reasons refused to set aside the award. The Labour Court has found that the stand taken by the Petitioner that the partner who was looking after the business had died and, therefore, the son who was the other partner had no knowledge of the matter pending before the Labour Court was incorrect and false. The Labour Court has also found on the basis of the evidence led before it that Sanjay Parshuram Khamkar, an employee of the petitioner, was well aware of the pending Reference and, therefore, ought to have attended the Court. The partner died in April 2001 whereas the written statement was filed in December 2001 which obviously meant that the petitioners were aware of the pending reference. Apart from this, the Reference was pending from 1997 onwards and the petitioner had taken no steps to file the written statement immediately after the statement of claim was filed. Besides this, the reasons given by the Labour Court for refusing to set aside the Reference are apt and require no interference from this Court.

3. In my view, therefore, the petition deserves to be rejected. Petition rejected.